

PART 785—ENFORCEMENT

Sec.

785.1 Scope and definitions.

785.2 Violations of the Act subject to administrative and criminal enforcement proceedings.

785.3 Initiation of administrative proceedings.

785.4 Request for hearing and answer.

785.5 Representation.

785.6 Filing and service of papers other than the Notice of Violation and Assessment (NOVA).

785.7 Summary decision.

785.8 Discovery.

785.9 Subpoenas.

785.10 Matters protected against disclosure.

785.11 Prehearing conference.

785.12 Hearings.

785.13 Procedural stipulations.

785.14 Extension of time.

785.15 Post-hearing submissions.

785.16 Decisions.

785.17 Settlement.

785.18 Record for decision.

785.19 Payment of final assessment.

785.20 Reporting a violation.

AUTHORITY: United States Additional Protocol Implementation Act of 2006, Pub. Law No. 109–401, 120 Stat. 2726 (December 18, 2006) (to be codified at 22 U.S.C. 8101–8181); Executive Order 13458 (February 4, 2008).

SOURCE: 73 FR 65128, Oct. 31, 2008, unless otherwise noted.

§ 785.1 Scope and definitions.

(a) *Scope.* This Part 785 describes the sanctions that apply to violations of the Act and the APR. It also establishes detailed administrative procedures for certain violations of the Act. Violations for which the statutory basis is the Act are set forth in § 785.2 of the APR. BIS investigates these violations, prepares charges, provides legal representation to the U.S. Government, negotiates settlements, and initiates and resolves proceedings. The administrative procedures applicable to these violations are described in §§ 785.3 through 785.19 of the APR.

(b) *Definitions.* The following are definitions of terms as used only in part 785 of the APR. For definitions of terms applicable to parts 781 through 786 of the APR, unless otherwise noted in this paragraph or elsewhere in the APR, see part 781 of the APR.

The Act. The U.S. Additional Protocol Implementation Act of 2006 (Pub-

lic Law 109–401, 120 Stat. 2726 (December 18, 2006)).

Assistant Secretary for Export Enforcement. The Assistant Secretary for Export Enforcement, Bureau of Industry and Security, United States Department of Commerce.

Final decision. A decision or order assessing a civil penalty, or otherwise disposing of or dismissing a case, which is not subject to further administrative review, but which may be subject to collection proceedings or judicial review in an appropriate Federal court as authorized by law.

Office of Chief Counsel. The Office of Chief Counsel for Industry and Security, United States Department of Commerce.

Recommended decision. A decision of the administrative law judge in proceedings involving violations of part 785 that is subject to review by the Secretary of Commerce, or a designated United States Government official.

Report. For the purposes of part 785 of the APR, the term “report” means any report required under parts 783 through 786 of the APR.

Respondent. Any person named as the subject of a letter of intent to charge, a Notice of Violation and Assessment (NOVA), or order.

Under Secretary, Bureau of Industry and Security. The Under Secretary, Bureau of Industry and Security, United States Department of Commerce.

§ 785.2 Violations of the Act subject to administrative and criminal enforcement proceedings.

(a) *Violations—(1) Refusal to permit entry or access.* No person may willfully fail or refuse to permit entry or access, or willfully disrupt, delay or otherwise impede complementary access, or an entry in connection with complementary access, authorized by the Act.

(2) *Failure to establish or maintain records.* No person may willfully fail or refuse to do any of the following:

(i) Establish or maintain any record required by the Act or the APR;

(ii) Submit any report, notice, or other information to the United States Government in accordance with the Act or the APR; or